

LABOUR DEPARTMENT

The 20th September, 1994.

No. 14/13/87-6 Lab./178.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and Transport Commissioner, Haryana, Chandigarh *versus* Shri Raghubir Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 5 of 1987

Between

SHRI RAGHBIR SINGH, S/O SHRI JUG LAL, VILLAGE & P. O. BADLI, DISTT. ROHTAK... *Workman*

and

(1) TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH, (2) GENERAL MANAGER, HARYANA ROADWAYS, ROHTAK. *.. Management*

Present :

Shri S. S. Gupta, A.R. for the workman,

Shri S. C. Singla, L.O. for the management.

AWARD

In exercise of powers conferred by Sub-Clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication,—*vide* Labour Deptt. Endorsement No. 49138-145, dated 29th December, 1986 :—

“Whether the termination of services of Shri Raghubir Singh, Conductor No. 1 is justified and in order ? If not, to what relief he is entitled ?

2. The applicant has filed the demand notice with the claim petition and when he appeared, claim statement has been filed by the workman that the workman was working with the respondent since 1971 as a Conductor. His work and conduct was quite satisfactory. The management respondent,—*vide* his order dated 12th June, 1980 terminated the services of the workman by way of dismissal on a false and fabricated charges. The termination of services of the workman is an act of unfair labour practice because the past record and other circumstances were not taken into the account by the management/respondent while arriving at the impugned decision. So-called domestic enquiry conducted by the management/respondent was in a routine manner because the principles of natural justice were never applied in alleged enquiry. The impugned order is not a speaking order, the punishment given to the workman highly disproportionate to the alleged charges against the workman and hence this petition was filed, for answer in the present reference in favour of the workman and against the management by way of reinstating him with full back wages and continuity of service

3. The respondent appeared and filed the written statement that the regular, fair and proper enquiry was conducted against the workman; reference is bad on account of delay and laches ; the reference is bad because the previous reference of the applicant No. 121 of 1983 was decided by this Court,—*vide* award dated 10th September, 1983 wherein the reference of the applicant was declared bad in law by this Court. The order of the General Manager, Haryana Roadways, Rohtak dated 12th June, 1980 is legal, valid and binding on the applicant. Hence, the present reference of the applicant/workman be rejected with costs.

4. Replication was filed. On the pleadings of the parties, the following issues were framed :—

1. Whether a valid and proper domestic enquiry was conducted by the respondent before terminating the services of the petitioner ? OPR
2. Whether the respondent has since lost confidence in the petitioner ? OPR
3. Whether the reference is bad on account of delay and laches ? OPR
4. Whether the reference is bad in view of objection 4 in the written statement ? OPR
5. As per terms of reference ?

Issue No. 1 :

5. This issue was treated as preliminary issue and was decided by my order dated 22nd November, 1993 against the management and in favour of the workman. My findings on the remaining issues are as under :—

Issue No. 2 :

6. The contention made by the learned A.R. for the workman chargesheet is that the bill were not stamping and signed by Branch Officer and Box was not prepared for the period from 18th September, 1974 to 25th September, 1975. The management was required to produced on file spare bill which is not been produced. There is also no instruction provided regarding box etc. It is no doubt true that the management has required to produced regarding preparation of box etc. When there is no instruction produced it can not be believe that the workman has required to have in possession the box. The question regarding the bill not been stamped by the Office I am of the view that it was duty of the office to have checked and to stamped the bill and not for the workman have got stamping by the management. If stamping of the bill was so necessary I am of the view that the workman could have returned it even without knowledge of the management. Then Ex. MW3/1 has been referred to but the said document does not show details of tickets and without which I am not to believed the case. The case is that show cause notice was prepared and served the workman. Ex. MW-1/4 is the statement of Chhotu Ram Supdt. and to the effect that he has checked all the passengers and do found one passenger without ticket and the conductor had taken 90 paise which the workman had not issued the ticket and had taken 90 paise from the passenger. The workman made submission that it was not possible for him to check every passenger because the bus was going to Badli to Jhajjar and distance in between may be 45 K.M. Even when he had issued tickets to every passenger and would have not kept 90 paise with him. I do agree with the submission that the workman issued ticket to every passenger and he had not got 90 paise but he might not be having 10 paise at that time and to give him a ticket afterwards.

7. The next allegation is that he had not found the amount of Rs. 211.70 paise which is later on deposited. If the workman deposited Mr. S. S. Gupta is that the respondent has not able to prove the fact that the respondent had lost confidence with the petitioner and there was no evidence that the respondent has lost confidence in the petitioner. Howsoever the workman has pleaded on charge-sheet Ex. MW-3/1 which is that the workman had issued tickets which were not stamped and were found so Lakhwant Singh and he has passed the bill without any person about knowing it and he got sanctioned Buxa after 18th September, 1975. There was no Buxa from 18th September, 1975 to 25th September, 1979. Second charge against him that Sunder Singh had found the amount of Rs. 211.70 Paise less deposited and he deposited the amount afterwards on 6th October, 1975. Third charge against him that the workman was in possession of Rs. 251/- whereas the total amount of tickets sold was Rs. 661.55 paise and in this way he has appropriate the amount of Rs. 510.55 paise. Fourth the whole charge that as the workman has got sanctioned Buxa on 6th October, 1975 and fifty charge is that he had received 90 paise money from the traveller but not issued a ticket for 90 paise to the passenger so he has embezzled the 90 paise of Govt. money.

8. The question was raised by the learned L.O. for the management is that as Raghbir Singh was already defamed for not being attendance on duty and was never confirmed to rule and the management has lost confidence in the workman and hence the workman is not entitled to be reinstated on the job. I have already passed the order dated 22nd November, 1993 to the effect that the management has not conducted fair and proper enquiry and the preliminary issue has been decided in favour of the workman.

9. The question now arises whether the workman had done irregularities as grounded in charge-sheet Ex. MW-3/1 or not. The amount of Rs. 211.70 paise and he might not been with him at the time he could deposited on the next following day which the workman has not been so I am of the view that the workman fastener any liability or without in personal liability.

10. The third charge against the workman is that when he checked he has found to him sold tickets of Rs. 661.55 paise but he with him having Rs. 151/- thus he misappropriate of amount of Rs. 510.55 paise. he should deposite the amount fully to hold he had been embezzled the amount of Rs. 510.55 paise because when he was deposited the amount at the time afterwards. The fourth charge against the workman that he had not prepare the box as I already held that the even if he had not prepared box he cannot fastener liability as the L.O. for the management has not produced any rules and which would shows that the workman keep with him box and which he has not kept.

11. I have already discussed charge No. 5. In view of the above said arguments and evidence from parties I am of the view that the workman how the respondent has lost confidence with the petitioner and thus I decide this issue against the management.

Issue No. 3 & 4 :

12. These issues are not pressed or argued by the management and hence decided against the management.

Issue No. 5 :

In view of my findings on the issue No. 2 I am of the view that the reference petition is maintainable and accept the claim statement filed by the workman. I hold that the workman is entitled to be reinstated with continuity of service and with 20% of back wages. The reference is answered and returned accordingly with no orders as to costs.

The 22nd April 1994.

P. L. KHANDUJA,
Presiding Officer
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 1137

dated 28th April, 1994.

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Rohtak.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No. 14/13/87-6Lab./181. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and Secretary, Agriculture Department, Haryana, Chandigarh *versus* Shri Pale Ram.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, ROHTAK

Reference No. 163 of 1993

Between

SHRI PALE RAM S/O SHRI RAN SINGH C/O SHRI M. S. RATHI OPP. AGGARWAL
DHARAMSHALA, SONEPAT

.. *Workman*

and

SECRETARY, AGRICULTURE DEPARTMENT, HARYANA, CHANDIGARH (2) ASSISTANT
PLANT PROTECTION OFFICER, SONEPAT

.. *Management*

Present :

None for the parties.

AWARD

In exercise of powers conferred by Sub-Clause (c) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana has referred the following dispute between the parties, named above, to this Court for adjudication,—*vide* Labour Department Endorsement No. SOV/Soni/44-93/30621-26 dated 19th August, 1993 :—

“Whether the services of Shri Pale Ram have been terminated or he has left his services himself?
To what relief he is entitled after decision on this point ?

2. The case was called several times, but no one appeared on behalf of the parties. Hence the reference is dismissed in default. The reference is answered and returned accordingly, with no order as to costs.

The 13th July, 1994.

P. L. KHANDUJA,
Presiding Officer
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 1603, dated the 25th July, 1994.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.